

October 23, 2002

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TWCC Medical Dispute Resolution  
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Austin, TX 78704

MDR Tracking #: M2-02-1201-01  
IRO #: 5251

\_\_\_ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to \_\_\_ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed MD specialized and board certified in Neurological Surgery. The \_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to \_\_\_ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

\_\_\_ is a 63-year-old woman who had a work related injury on \_\_\_. She subsequently had six weeks of Physical Therapy and epidural steroid injections as well as lumbar facet blocks. A percutaneous lumbar discectomy was performed at the level of L3-4 without relief. MRI scans reportedly revealed degenerative disc disease at L3-4 and L4-5 as well as a Grade I spondylolisthesis at L3-4 and a retrolisthesis at L4-5. Flexion and extension x-rays reportedly reveal mobility at both L4-5 and L5-S1 with accentuation of spondylolisthesis in flexion at the L3-4 level and accentuation of the retrolisthesis at the L4-5 level.

The patient complains of back pain radiating into both lower extremities but documentation on a 6/5/02 visit fails to notate any neurologic deficit. Actually it is stated that she is grossly neurologically intact and is ambulating without assistance. It is also notated that she has a synovial cyst at the L4-5 level. Elsewhere in the doctor's records it is record that the spondylolisthesis is at L4-5 and the retrolisthesis is at L3-4.

## REQUESTED SERVICE

Her physician has recommended that she undergo a lateral approach anterior lumbar interbody fusion with BAK cages at L3-4 and L4-5, as well as a staged L3 through L5 laminectomy with trans facet decompression and percutaneous pedicle screw instrumentation and facet fusion with iliac crest bone and graft.

## DECISION

The reviewer agrees with the prior adverse determination.

## BASIS FOR THE DECISION

The operative report for her prior surgical procedure performed on 4/30/02 actually states that her percutaneous lumbar discectomy was performed at L4-5. A discogram was performed on 2/15/02. The only unequivocally positive level in terms of a pain response was at L4-5, where an annular tear was demonstrated. An MRI report dated 5/7/02 was interpreted by the radiologist as consistent with no herniated disc, neural foraminal or spinal stenosis identified. There were also fairly severe changes of facet arthrosis - mostly at the level of L4-5.

Treatment guidelines and care standards mandate that very specific information about the pain generator must be obtained prior to performing lumbar decompressive and/or fusion surgery in order to obtain the best possible relief of pain. There is much contradictory information in the records provided by \_\_\_\_\_. As noted above, the retrolisthesis is variably noted to be at L4-5, and then in other reports at L3-4. As well, there is no notation of the degree of hypermobility demonstrated on flexion/extension x-rays in terms of millimeters of movement. In addition, the records reflect that the patient underwent an L3-4 percutaneous discectomy. In other places, such as in the operative report, it is indicated that a left L4-5 percutaneous discectomy was performed. Interestingly, postoperative changes are noted on the right at L3-4 on the postoperative MRI.

At the present time, in light of inaccurate, contradictory and incomplete information as outlined above, the 360-degree decompression and fusion request is not recommended. This patient should have accurate measurements of instability performed with regards to each level of the lumbar-sacral spine. She should also undergo repeat lumbar discogram with not only provocative testing but subsequent injection at the provocatively positive levels with a local anesthetic to determine response to treatment with said substance. Care standards indicate that only when very meticulous information such as this is collected can success be obtained with lumbar decompressive and fusion procedures.

As an officer of \_\_\_\_\_, I certify that there is no known conflict between the reviewer, \_\_\_\_\_ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

\_\_\_ is forwarding by mail and, in the case of time sensitive matters by facsimile, a copy of this finding to the treating doctor, payor and/or URA, patient and the TWCC.

Sincerely,

### **YOUR RIGHT TO REQUEST A HEARING**

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

In the case of prospective ***spinal surgery*** decision, a request for a hearing must be made in writing and it must be received by the TWCC Chief Clerk of Proceedings within 10 days of your receipt of this decision. (20 Tex. Admin. Code 142.5(c)).

In the case of other ***prospective (preauthorization) medical necessity*** disputes a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision (28 Tex. Admin. Code 148.3).

This decision is deemed received by you 5 (five) days after it was mailed (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing should be sent to: Chief Clerk of Proceedings, Texas Worker's Compensation Commission, P.O. Box 40669, Austin, TX 78704-0012. A copy of this decision should be attached to the request.

The party appealing this decision shall deliver a copy of its written request for a hearing to all other parties involved in the dispute, per TWCC rule 133.308(t)(2).